The homesteads are arranged in roughly horse-shoe shape around an open space in which are tethered the sheep and cattle of the hamlet. Within this space is usually a very large hut (*luak*) used for animals in the rains and throughout the year as a guest-house and general village club. There is also usually a normal sized hut, with no surrounding fence, known as the *geu*, which is used as a dormitory by the unmarried men. In this hut are put the ashes of the cattle dung with which the young men cover themselves at night for warmth and protection from flies. Some villages have a tree in the central circle, but more often there is a complete and inhospitable absence of shade.

The homestead (*gol*) consists of two huts between which is an area enclosed by a fence of dura stalks or rough grass matting. The family group inhabiting the homestead is called also (presumably by transference) *gol*, and it is in this latter sense that the word *gol* will be used in this note.

In this sense *gol* is the smallest (though important) social unit in the tribe. An unmarried man does not own a homestead. All unmarried persons live in the homestead and adhere to the *gol* of their father. If their father is dead they adhere to the *gol* of their eldest married brother or, if they have none, to their deceased father's (married) brother. The owner of the homestead to which they adhere is the leader of their *gol*, and as such is responsible for the behaviour of its members. This vicarious responsibility on the part of the *gol* leader is a corollary to the principles of the ownership of cattle (and sheep). The cattle of the *gol* are owned and disposed of by the *gol* leader alone, and since the remedy for a wrong is a payment of cattle it follows that he and not the actual malefactor is held responsible. The position resembles that of the Roman family where the paterfamilias alone is *sui juris*, all others being *alieni juris*. The Shilluk *filius familias*, however, becomes *sui-juris* on marriage which the Roman son did not. The vicarious responsibility of the *gol* leader has the convenient aspect that the *gol* leader is more easily found by the arm of the law than the actual malefactor because of the fact that he owns a homestead.

17: Pumphrey G-5 (1934-1938) 1941
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CHAPTER 5.

CUSTOMARY LAW.

PROPERTY.

Since the *Kwar* entire has been split into lineages within the various settlements the ties of clan have become weaker and now operate practically only within the settlement. *Pari passu* with this slackening of the ties of the clan has occurred a change in the ownership of cattle[30]. Possibly the clan used to own cattle in a communal herd from which were disbursed cattle in return for wives from another clan. At present the cattle of each hamlet are kept rigidly apart and not even within the hamlet are they communally owned. The *gol* leader alone owns cattle and he alone, as has already been described, can dispose of them. He alone allots cattle as bride wealth for unmarried male members of his *gol* and receives cattle paid to the *gol*, whether as marriage price or as compensatory payment for a wrong.

It is not perhaps too fanciful to compare his position with that of a trustee towards beneficiaries (who are the members of his *gol*). He is the sole legal owner and can, legally, dispose of them as he chooses. He holds them in fact however subject to a trust which equity will enforce. The terms of the trust are that all cattle shall be applied solely towards the marriages of male members of the *gol* in order of their seniority, that no cattle shall be sold except for the purchase of grain in time of famine, and that the *gol* leader shall not himself marry a second time unless there is no unmarried male member of the *gol* of marriageable age. Any compensatory payment becoming due from the *gol* on account of a wrong should take precedence over any other payment. A breach of these "terms of trust" would be universally censured but would probably not be interfered with by the courts, which tend conveniently to hold that a *gol* leader has full and sole right as to disposal.

It is interesting that where a compensatory payment for killing is due the net is cast wider and not only the entire lineage but even members of other lineages of the same clan may be required to contribute.

30. Where "cattle" is used in this chapter it may be taken to extend also to goats.

17: Pumphrey G-5 (1934-1938) 1941
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177 422 436 Recently, owing to the cultivation of cotton and to the increase in demand for work at Malakal and elsewhere, the value of money has come to be more appreciated. Most of the money so acquired is stored up for the purchase of a bull, very little being spent in shops. [454 556] The purchaser of a bull not unreasonably objects to its going into the maw of the *gol* herd and accordingly deposits it for safe keeping with a distant friend. This innovation, which is no less than the introduction of a system of private ownership of cattle, is calculated to work eventually a deep change in customary law. The growth of cash-[684] mindness has already resulted in cash being sometimes substituted for a bull in cases of payments in compensation for sexual wrongs. No case is known where cash has been accepted instead of one or more of the bride wealth cattle, but this would be logically the next step. The effect of a change to cash bride wealth would be large. The present [182 583] system makes for tribal cohesion and for the administratively convenient system of vicarious responsibility, whereas cash marriage payments would loosen remaining cohesion of the *gol* and render each man responsible for himself. Cattle would cease to become a medium of exchange in marriage contracts and become a commodity. The innumerable goats would cease to eat up the cotton and the products [146] of the Mission gardens and instead themselves be eaten, much to the benefit of the Shilluk physique according to medical opinion. The economic absurdity of the Malakal Hospital contractor being sometimes compelled to import tinned milk by air so as not to forfeit his deposit would be avoided. The possibility of such economic advantages is to be set against the consequent lessening of tribal cohesion.

SUCCESSION.

428 567 There are no definite rules for the inheritance of chattels. Distribution usually takes place before death. If not they will generally be taken by the eldest son, or, in default of sons, by the next-of-kin to the deceased. The inheritance of chattels rarely produces litigation.

428 592 Cattle are taken by the succeeding *gol* leader, who may be a married son or a married brother according to circumstances. In any case the new *gol* leader holds the cattle inherited under the same trust as

27: Munro U-5 (1918) 1918 FJ23 Shilluk FJ23

126 Unfortunately I was unable to stay longer, and as the actual religious ceremonies had been safely completed, I asked Yuzbashi Hussein Farag, Mamur Kodok, to return to Fashoda on the 20th and take note of any further ceremonies. The following information is from notes given to me
643 by him: «Apparently the Ret went up to his palace from the «temporary hut» during the night of the 19th. On the 20th in the morning the Ret left his palace accompanied by a large crowd. He was dressed in a game skin, and with him was the sacred stool. His escort were holding the shield. Nyakang also left his shrine escorted by a great company of people. Then
544 there occurred the mock battle with dura stalks (1). When the two armies meet, the Ret's people as though frightened of the people of Nyakang, ran towards the palace. The young girl of Kwa Okel on this day was with Nya-
778 kang's people, and when the «battle» was joined, the Ret seized her and carried her off to his palace.

«Nyakang then returned to the Shrine, where he is said to remain till the rainy season. Four persons are left as his escort.

«The Ret is said to stay another three days in his palace and then come
537 out and meet his chiefs. Every orator speaks in his turn and before talking puts his spear on the ground. If his speech sounds good to the people, the drum is beaten as a token of applause. The spears laid down become
422 the property of the Ret. The young girl stays with the Ret till she grows
582 up, and the Ret can then wed her to any Shilluk he pleases.»

P. MUNRO.

Malakal, February 1918.

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114 (1) Seligman (p. 224) states the mock battle occurs at the khor before the ceremony. No dura stalks were used on the 17th at the time of the mock fight seen by me. It would appear to be one of those instances in which different installations vary.

29:Dempsey M-5 (1940-1954) 1955
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admire on account of its ingenuity and plausibility, will bring forward a cloud of witnesses to support his statements and with an air of 'that's my story and it's sticking to me' implicitly challenge the court to disprove it or his opponent to go one better. And if perchance his version of the facts of the case is shown to be the reverse of reality and his witnesses are confounded and made to contradict one another, no one is shocked at such blatant falsehood; the onlookers rather are disgusted at the poor show he has put up and at the poor staff work which has permitted the witnesses to be caught out.

Most of the cases which are brought before the native courts are concerned with the ownership of cattle. They are usually claims for cows to replace the original units of a dowry which have died, or for the return of cattle which have been paid with a view to a marriage which for some reason or another has not taken place, or which, if ratified, has been broken up owing to the sterility or the unfaithfulness of the woman. Such cases are tremendously involved and intricate, and only a Shilluk well versed as he is in his tribal laws and customs can possibly follow them. For instance a Shilluk often starts paying cattle for a bride whilst she is still a child, and six or seven years must elapse before she is of marriageable age. The prospective husband may leave the country, having as it were 'staked a claim', only to return later to find that the girl's father has bestowed her on another suitor. The disappointed swain at once demands his cows back but these are beyond recall, having long since been dispersed throughout the country as parts of other dowries. There are, it is true, some cattle left of the second dowry, but no Shilluk worth his salt will easily part with cattle which have once come into the family byre in prompt settlement of a mere debt. So the father puts the angry man off with soft words and fair promises, and then another spanner is thrown into the works; the daughter is ignominiously returned for some reason or other and suitor number two requires that his dowry be returned. Father hopefully offers the rejected daughter to her former suitor,

29:Dempsey M-5 (1940-1954) 1955
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691 but he now makes it plain that he wouldn't have her as a
583 gift, and indeed has made overtures to another lady, so
422 please may he have his cattle and—just to make things a little more complicated—the calves that they have had, and can he have them at once since his new prospective father-in-law is getting a little nasty about the lack of dowry, and hinting that his daughter's affections may easily be bestowed elsewhere. 'Not quite so fast,' says number two, 'those cows are mine and mine only and quite obviously their calves are mine too, so kindly arrange for the immediate delivery of the same.' Father pours ridicule and scorn on both claimants to the calves. It is true, he admits, that both young men have some sort of a claim to cattle—which he will settle by and by when he gets a bid for his youngest daughter at present crawling round the floor—but for either of them to claim the calves is preposterous; surely they belong to him who has had all the trouble of herding the beasts; to his skill and industry in nursing the cows through the difficult time of calving is due the fact that there are any calves at all! And so the arguments and counter arguments, taunts, recriminations, insults and threats will be tossed back and forth. Tempers will rise and maybe sticks will be flourished and spears flashed. It can happen that one of the parties will work himself into a blind passion and regardless
[682] of the consequences may break his adversary's skull or thrust his spear into him, but generally, fear of reprisals from the clansmen of his opponent and the justice that will certainly be meted out to him by the white man in Malakal, should he survive long enough to be arrested, advises caution; and since none of the contestants is strong enough to take by force what he considers to be his by right, the dispute is eventually, albeit reluctantly, brought up before
[634] the district chief.

695 Reluctantly, I say, because the litigants know full well
693 that whoever is going to lose by the decision of the court, the judge isn't. The plaintiff may marshal his facts with unassailable logic, clothe them in masterly oratory, and present them with crystal clear lucidity. He and his witnesses may even